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**COMMISSIONERS**

DR. D.H. DANIEL, 3RD DISTRICT

FRANCES M. DANIEL, 5TH DISTRICT

ALLEN RAY, 6TH DISTRICT

## State of South Carolina

GARY R. BAKER  
EXECUTIVE DIRECTOR

## State Ethics Commission

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Rembert Dennis Bldg., Ste. 545

1000 Assembly Street

Columbia, S.C. 29201

# NEWSLETTER

October 1981

No. 82-001

### DANIEL AND RAY APPOINTED COMMISSIONERS

Dr. D.H. Daniel and Allen Ray were recently appointed by Governor Riley to serve four year terms on the State Ethics Commission.

Dr. Daniel, from Belton, is a retired Baptist minister, having served pastorates in Kentucky, as well as Conway, Hendersonville, and Belton, S.C. Dr. Daniel is the founder of Daniel Worldwide Tours, Inc. He has served on the Furman University Board of Trustees, and presently serves on the Board of the Anderson County Chapter of the American Red Cross.

Dr. Daniel is married and has one child and two grandsons.

Mr. Ray is engaged in civil law practice in Conway and is associated with local and national bar associations. He also serves on the boards of Garden City Chapel, Conway Hospital, and S.C. National Bank.

Mr. Ray is married and has one son.

### OFFICIALS VIOLATE ACT

The State Ethics Commission has cited one candidate and five elected officials for violations of the State Ethics Act in not filing timely Statement of Economic Interests. Complaints were filed by Gary R. Baker, Commission Executive Director.

The Commission publicly reprimanded Michael W. Fender, candidate for Lodge city council whose name appeared on the June 9 election ballot; Roy B. Burnett, elected member of the Slater Water and Sewer District; Jim Marshall Fisher, elected trustee of Anderson School District #2; Everett V. Presson, Jr., elected trustee of Charleston School District #2; and Dr. Wilsie G. Jenkins, elected trustee of Bamberg County Schools. The Statement of Economic Interests was filed by those reprimanded after the initiation of the complaint action.

Joseph Rubin, elected Mayor of Pelion, was also cited for failing to file the Statement of Economic Interests. Mayor Rubin failed to provide the Statement of Economic Interests prior to the hearing date, September 22. The Commission referred the complaint to the Attorney General's Office for appropriate action, and also made copies of the decision available to members of Pelion City Council.

### STATEMENT OF ECONOMIC INTERESTS FORMS TO BE MAILED DIRECT

The State Ethics Commission will institute a new procedure this year for the distribution of 1982 Statement of Economic Interests forms. In prior years, the Commission has mailed supplies of the forms to the chief administrators in the various public agencies. In early January 1982, the Commission will mail the Statement of Economic Interests directly to each person who filed during 1981, except for defeated candidates.

In mid-November, the Commission will provide each public agency with a computer listing of the names and addresses of the persons currently on the files who appear to be required to file in 1982. The agency will be asked to verify the names and addresses in order that the forms may be properly addressed. Corrections will be made to the Commission mailing list prior to distribution of the forms.

The Statement of Economic Interests update will be due not later than April 15 of 1982 by officeholders. Candidates for office will have to file the form with the party official or election official at the time of becoming a candidate. Forms are available for candidates from the various party and election officials.



## **CONSOLIDATED PROCUREMENT CODE AMENDS ETHICS ACT**

The S.C. General Assembly enacted the Consolidated Procurement Code in July which amended the Ethics Act by repealing a provision requiring public notice and competitive bidding on certain contracts and adding additional provisions which strengthen the Act.

The new Code repealed §8-13-480 which generally required a business with which a public officeholder was associated to enter into contracts with public agencies through a process of public notice and competitive bidding.

The Code provides:

- (1) A public official or employee cannot participate in a procurement in which he or his business has a financial interest or with which he or a member of his household is negotiating for prospective employment.
- (2) A public official or employee will not be deemed to have a conflict of interest concerning financial interests if such financial interests are in a blind trust, and the existence of the blind trust has been reported to the appropriate supervisory office.
- (3) Prohibits payment, gratuity, or offer of employment by contractors and subcontractors as an inducement to the award of a subcontract. The prohibition against such gratuities and kickbacks is required to be set forth in every contract or contract solicitation.
- (4) Prohibits a public official involved in the procurement process to resign and accept employment with any person contracting with the governmental body.
- (5) Prohibits the utilization of a former public official or employee as an agent or principal in connection with matters in which the person participated personally and substantially while in public service.
- (6) Provides for the issuance of oral or written warnings or reprimands, the recovery of anything received by a public official or employee in violation of the code, and provides for written warnings and reprimands and suspension or debarment against non-public officials or employees.

Copies of the amended State Ethics Act may be obtained from the Commission office.

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### **RAY ELECTED VICE-CHAIRMAN**

Mr. Allen Ray, newly-appointed Commissioner from the Sixth District, was elected Commission Vice-Chairman at the September 22 meeting. Mr. Ray replaces W. Robert Chestnut, his predecessor Commissioner from the Sixth District. Mr. Ray will serve as Vice-Chairman until the completion of his term. Mr. W. Jack Greer of Greenville continues to serve as Commission Chairman.

## **PUBLIC OFFICEHOLDERS PROHIBITED FROM APPEARING BEFORE CERTAIN REGULATORY AGENCIES**

Public officials and employees are prohibited by §8-13-470 from appearing before the Public Service Commission, Dairy Commission, or Insurance Commission in rate or price fixing matters. In past advisory opinions, the State Ethics Commission has advised that a public official or employee may appear on his own behalf as a private citizen or when he is appearing in his official capacity to provide testimony concerning the matter as it would affect persons or groups associated with the public agency. Employees or officials also may appear when the matter involves a business interest or when their appearance is required by law.

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### **PUBLIC HEARING SLATED**

A public hearing has been scheduled for Tuesday, November 17, 1981 at 10:00 a.m. in the Commission conference Room, Suite 545, Rembert Dennis Building, 1000 Assembly Street, Columbia, to hear any comments concerning proposed rules and regulations as published in the September 25 issue of the State Register.

Copies of the proposed regulations may be obtained from the Commission office. Anyone desiring to present oral or written testimony at the hearing should contact the Commission office prior to November 12, 1981.

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### **LEGISLATION PROPOSED**

The State Ethics Commission, at its September 22 meeting, approved a proposed amendment to make the Statement of Economic Interests a part of the candidate's declaration of candidacy. The Commission also proposed resubmitting legislative proposals which had been approved last year. Those proposals provided for changes in campaign disclosure provisions and making further administrative changes to the law and to the rules of conduct.

Copies of the proposed legislation may be obtained from the Commission office.



# DIGEST OF ADVISORY OPINIONS

SEC 82-001

August 18, 1981

## **SUBJECT: DEPUTY CORONER AS PART-OWNER OF FUNERAL HOME**

A part-owner of a funeral home may be appointed to the office of Deputy Coroner provided he does not utilize his position to direct dead bodies to be handled by the funeral home with which he is associated or to direct transportation of dead bodies in an ambulance owned and operated by that funeral home. An Attorney General's opinion was also cited that such a business interest created the appearance of impropriety and should be avoided.

SEC 82-002

August 18, 1981

## **SUBJECT: COUNTY COUNCIL MEMBERS VOTING ON MATTERS THAT PERTAIN TO THE SCHOOLS OF JASPER COUNTY WHEN THEY ARE EMPLOYED AS TEACHERS**

County council members who are employed within the county as school teachers were advised to provide the written statement of potential conflict and disqualify themselves from participating in the approval of the school district budget which includes salary increases for school employees.

SEC 82-003

August 18, 1981

## **SUBJECT: COUNTY PATROLMAN WORKING PART-TIME IN BEER AND WINE STORE**

A county police officer is not precluded from working voluntarily in a beer and wine store operated by his father. However, in prior advisory opinions, the Commission has advised against law enforcement officers having a business interest in a business which possesses a liquor license to preclude even the appearance of impropriety. The local law enforcement agency should monitor the specific work situation of the patrol officer to determine whether the work situation creates a conflict of interest not in keeping with the spirit and intent of the State Ethics Act.

SEC 82-004

August 18, 1981

## **SUBJECT: PUBLIC EMPLOYEE'S FIRM BIDDING ON GOVERNMENT CONTRACTS**

The Executive Director of the S.C. Coastal Council was advised that a janitorial service firm of which he is president and major stockholder may contract with the State provided he has no involvement in the procurement process and that he takes no action or makes no decision concerning the contract.

## **COUNCIL ON Governmental Ethics Laws Conference**

The State Ethics Commission will be the host agency for the annual conference of the Council on Governmental Ethics Laws to be held in Charleston on December 7 - 9, 1981. The Council on Governmental Ethics Laws is an organization of agencies from the United States and Canada who have responsibilities in the areas of ethics, campaign finance, and lobbyist regulation.

The conference will be held at the Mills House Hotel in Charleston. Please contact the Commission office for further information on the program.

SEC 82-005

August 18, 1981

## **SUBJECT: ETV EMPLOYEE PRODUCING FILMS**

An employee of S.C. ETV may engage in the production of films during her off-hours provided that (1) no public materials or equipment are utilized, (2) such work does not interfere with the needs of the agency, (3) the public position is not utilized to obtain or continue such employment, and (4) such work is engaged in on other than normal working hours. The employee was further advised that a violation of the State Ethics Act would occur if the employee channeled film production requests to her outside business, or delayed or took other action to delay or kill a production by the public agency while offering such service by the outside business interest. The employee was also advised against utilizing her public position to obtain any more favorable treatment concerning film production materials or sources of supply than accorded any other film production group.

SEC 82-006

August 18, 1981

## **SUBJECT: SCHOOL EMPLOYEE VOTING ON SCHOOL BUDGET**

Members of county councils have been advised against participating in school budgetary matters which include salary increase items affecting themselves or members of their household. Matters coming before county council which do not substantially affect directly the financial interests of such a council member or a member of his household would not require the council member to disclose and disqualify himself from that matter.

SEC 82-007

September 22, 1981

## **SUBJECT: PHYSICAL THERAPISTS WITH OUTSIDE BUSINESS INTEREST**

Physical Therapists employed by a county hospital may engage in physical therapy work outside their normal work consistent with outside employment guidelines. Their work, however, has inherent conflicts in which such public employees may refer patients referred to them in their public position to their outside business activity. The employing agency should closely monitor the outside employment to insure that the public position is not utilized to obtain favorable treatment for the outside business interest.

## **ELECTION OFFICIALS MANUAL PUBLISHED**

The State Ethics Commission recently published an election officials manual for use by party and elections officials who have responsibility for obtaining Statement of Economic Interests forms from candidates. The manual prescribes the procedures for notifying the Commission of impending elections, the procedure for obtaining completion of the forms and verification of candidates.

The manuals were recently mailed to party officials, county and municipal election commissions, voter registration offices, and school districts. Anyone desiring a copy may contact the Commission office.



## CAMPAIGN DISCLOSURE PROCEDURES MODIFIED

At its September 22 meeting, the Commission approved a modification of the campaign disclosure filing requirements by candidates whose only campaign expenditure is the filing fee. The Commission approved the staff-proposed provision to allow a candidate who has only a filing fee and who paid that filing fee out of his personal funds without having any additional contributions or expenditures to delete the filing of the 30 day post-election report. The candidate must, however, disclose the amount of the filing fee on the Statement of Economic Interests at the time of becoming a candidate. If the candidate subsequently receives contributions or makes expenditures, then the filing of the Campaign Disclosure Form within thirty days after the election will still be required.

The modification, which will be effective January 1, 1982, will enable candidates in election campaigns in which campaign funding is not utilized to complete their filing requirements at the time of becoming a candidate.

**State Ethics Commission**  
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